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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2011-362

LYNN ANN KENDZIERSKI,
a.k.a. LYNN ANN FISHER,
a.k.a. LYNN ANN NASH,
a.k.a. LYNN ANN HAMMONDS
3 Third Street
Galt, California 95632
Registered Nurse License No. 650907

ACCUSATION

Respondent.

Complainant alleges:

PARTIES

1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

2. On or about January 13, 2005, the Board issued Registered Nurse License Number 650907 to Lynn Ann Kendzierski, also known as Lynn Ann Fisher, Lynn Ann Nash, and Lynn Ann Hammonds ("Respondent"). Respondent's registered nurse license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2010, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022 . . .

7. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a -----," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

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1 **COST RECOVERY**

2 8. Code section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **DANGEROUS DRUGS AT ISSUE**

7 9. "Ciprofloxacin (antibiotic)", "Metronidazole (antibiotic)", "Amoxicillin (antibiotic)",
8 "Bactrim (antibiotic)", "Erythromycin (antibiotic)", "Loperamide (anti-diarrheal)", and
9 "Promethazine (anti-emetic/anti-histamine)" are dangerous drugs within the meaning of Code
10 section 4022 in that they require a prescription under federal law.

11 **CAUSE FOR DISCIPLINE**

12 **(Self-Administration and Furnishing of Dangerous Drugs)**

13 10. Respondent is subject to disciplinary action pursuant to Code section 2761,
14 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
15 subdivision (a), in that in or about June 2007, while employed as a registered nurse at California
16 State Prison, Solano, located in Vacaville, California, Respondent self-administered and/or
17 furnished to another dangerous drugs without lawful authority therefor, as follows: On two or
18 three occasions in June 2007, Respondent stole prescription medications including, but not
19 limited to, Ciprofloxacin, Metronidazole, Amoxicillin, Bactrim, Erythromycin, Loperamide,
20 and/or Promethazine, from the "stock meds" area of the primary clinic in the Treatment and
21 Triage Area where she worked, and supplied some of the medications to her boyfriend.
22 Respondent also took some of the medications herself to treat bladder and sinus infections.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 650907, issued to Lynn Ann Kendzierski, also known as Lynn Ann Fisher, Lynn Ann Nash, and Lynn Ann Hammonds;
2. Ordering Lynn Ann Kendzierski, also known as Lynn Ann Fisher, Lynn Ann Nash, and Lynn Ann Hammonds, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/20/10

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant